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08/29/2003

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.  
1300 I STREET, N.W.  
WASHINGTON, DC 20005-3315

EXAMINER

LANDREM, KAMRIN R

ART UNIT PAPER NUMBER

3738

11

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/910,008

Applicant(s)

MOLL ET AL.

Examiner

Kamrin R. Landrem

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 29-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I, Species E (Figures 12-19 and 22-32), claims 1-28 in Paper No. 10 is acknowledged.

Claims 29-41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

Claim 9 is withdrawn as being directed to non-elected species A (Figures 1-8). Claim 9 recites "lip-sections" which are disclosed in Figure 8.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-9, 15-17, and 23-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6, 15, and 16 recite the limitation "the first and second terminal parts" in line 2 of claim 6, in line 2 of claim 15, and line 3 of claim 16. There is insufficient antecedent basis for this limitation in the claim.

Claims 23-28, Attempts to claim a process without setting forth any steps involved in the process generally raises an issue of indefiniteness under **35 U.S.C. 112**, second paragraph. See MPEP 2173.05(q), "Use" Claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 12-14, and 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Khosravi et al (USPN 5,441,515).

With reference to Figure 26 Khosravi discloses a shape memory (1:54-63) stent for supporting vessels comprising expandable inner and outer walls formed of a plurality of circular rings 380 and a releasable lock that maintains the device in either the expanded or contracted position. The lock is comprised of a first terminal portion 390 having a catching element 385 that is engageable with the lock opening 395 of the second terminal portion 400. The lock opening 395 also functions as a guide mechanism, guiding the first and second terminal portions over one another. The stent may be coated in order to treat a medical disorder (7:28-38). With regards to claim 16, Figures 19 and 20 disclose a male projection 245 that is interlockable with female receiver 265 through which the male projection 245 is transposable. The methods for arranging the stent with in the body by means of an inflatable catheter are disclosed in column 6, beginning with line 23.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10,11, and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosravi in view of Ragheb et al (USPN 6,096,070).

Khosravi, as discussed above, discloses the claimed device for internally supporting vessels however Khosravi fails to disclose a traceable stent that has a radioactive material for localized treatment. Ragheb teaches a radiopaque medical device 10 for treating vessels in the digestive tract, urinary tract, and the circulatory system that comprises a controlled release of radioactive agent (3: 40-63) to prevent thrombosis formation and restenosis. Therefore in view of the teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the locking stent of Khosravi to incorporate the radioactive coating in order to prevent restenosis and the buildup of thrombosis.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamrin R. Landrem whose telephone number is 703-305-8061. The examiner can normally be reached on 8:00-5:00, Monday-Friday.


Art Unit: 3738

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Kamrin Landrem  
Examiner  
AU 3738

KRL  
August 21, 2003

  
CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700